

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

EDDIE DEAN WOODFIN,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 4:06-CV-1153-CDP
	)	
STATE OF MISSOURI,	)	
	)	
Respondent.	)	

**ORDER AND MEMORANDUM**

This matter is before the Court upon the petition of Eddie Dean Woodfin for a writ of habeas corpus and his application for leave to commence this action without payment of the required filing fee. See 28 U.S.C. § 1915(a). Upon consideration of the financial information provided with the application, the Court finds that petitioner is financially unable to pay any portion of the filing fee.

Petitioner, an inmate at the St. Louis City Justice Center, seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2254. In his petition and supplement thereto [Doc. #1 and Doc. #4], petitioner challenges his ongoing state criminal proceeding. Specifically, he alleges that, in violation of state law, he was denied his right to a timely preliminary hearing and that, without his knowledge or approval, the assistant public defender waived petitioner's right to a preliminary hearing.

In the absence of exceptional circumstances, a state prisoner must exhaust currently available and adequate state remedies before invoking federal habeas corpus jurisdiction. Braden v. 30th Judicial Circuit Court of Kentucky, 410 U.S. 484 (1973). State remedies are ordinarily not considered exhausted if an individual may effectively present his claim to the state courts by any currently available and adequate procedure. Not only will petitioner have the opportunity to raise constitutional challenges in the context of his state criminal proceedings, and if necessary, subsequent appeal, but the State of Missouri provides habeas corpus relief for prisoners in its custody. As such, petitioner has available state procedures that he must exhaust before invoking federal habeas jurisdiction.

Therefore,

**IT IS HEREBY ORDERED** that petitioner's motion for leave to proceed in forma pauperis [Doc. #2] is **GRANTED**.

**IT IS FURTHER ORDERED** that no order to show cause shall issue as to respondent, because petitioner has failed to exhaust his available state remedies.

**IT IS FURTHER ORDERED** that petitioner's application for a writ of habeas corpus is **DENIED**, without prejudice.

An appropriate order shall accompany this memorandum and order.

Dated this 5th day of September, 2006

*Colleen D. Perry*

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**UNITED STATES DISTRICT JUDGE**